REMARKS

Reconsideration And Allowance Are Respectfully Requested.

Claims 1, 2, 4, 5, 7, 16-20 and 27 are currently pending. No claims have been amended. Claims 3 and 6 were previously canceled. Claims 8-15 and 21-26, which were previously withdrawn based upon a prior restriction requirement, have been canceled without prejudice and Applicant reserves the right to pursue these claims is a subsequently filed divisional application. No new matter has been added. New claim 27 have been added. Reconsideration is respectfully requested.

The Examiner has objected to page 5 of the Specification as being missing. Page 5 is not actually missing. When the application was printed out, page 5 was inadvertently skipped and Applicants went directly to the Summary of the Invention at page 6. Therefore, page 5 is merely a blank page. With regard to the Description of Drawings, they can be found at pages 8 and 9.

With regard to the rejections based upon the outstanding references, claims 1 and 2 stand rejected under 35 U.S.C. § 102(a), or in the event Applicant can overcome the 102(a) reference, 102(e) as being anticipated by U.S. Patent No. 6,588,165 to Wright ("Wright"). Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being patentable over Wright. Claims 16-18 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wright in view of U.S. Patent No. 4,683,693 to Rockar ("Rockar").

With regard to the application of Wright under both § 102 and 103, the Office Action provides a detailed discussion of Wright and how Wright presumably reads upon the pending

claims. In particular, claim 1 requires a base including a top surface and a bottom surface wherein the bottom surface is composed of an underside consisting essentially of a first footing member extending downwardly from the bottom surface of the base, a second footing member extending downwardly from the bottom surface of the base and a third footing member extending downwardly from the bottom surface of the base.

The outstanding Office Action has interpreted Wright to disclose an underside with first, second and third footing members. However, the Examiner's interpretation ignores the fact that the claims require a bottom surface having footing members extending downwardly therefrom. According to the interpretation offered in the outstanding Office Action, elements C, D and E are deemed to read upon the claimed footing members. However, these elements are the bottom surface of the extrusion device and in no way extend downwardly from the bottom surface.

"Anticipation requires that each and every element of the claimed invention is described in a single reference". *AKZO N.V. v. United States Int'l. Trade Comm'n*, 808 F.2d 1471, 1479 (Fed. Cir. 1986). Although claims during examination are given their broadest reasonable interpretation in order to facilitate precision in claiming, that interpretation must be "consistent with the specification, [and] claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art". *In re Bond*, 910 F.2d 831, 833 (Fed. Cir. 1990); see also *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) ("[T]he ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question."); and *In re Gary Edward Wheeler*, Case No. 2008-1215 (CAFC 2008 (nonprecedential opinion)).

The Examiner may not merely create his own definitions for language found in the claims in order to make a cited reference read upon pending claims. Rather, the Examiner must look at the claims in the manner one of ordinary skill in the art would interpret the claims based upon the specification. No one of ordinary skill in the art would look to the disclosure of Wright and consider that elements C, D and E are in fact footing members extending downwardly from a bottom surface of a base. Accordingly, it is Applicant's opinion the rejection is improper and Applicant respectfully requests the rejection be withdrawn.

As to claims 4 and 5, these claims further define that the footing members have a depth of approximately 0.036 inches. The Examiner asserts that "it would have been obvious at the time the invention was made to a person having ordinary skill in the art as a matter of design choice to have the dimensions footing members as claimed because Applicant failed to state a criticality for the necessity of the limitation and the prior art of record is capable of being designed to meet the limitation as claimed and maintain within the scope of the invention".

Nothing could be further from the truth. Since Wright does not even disclose downwardly extending footing members, it is questioned how elements C, D and E could have a depth of 0.036 inches. In addition, and with regard to the criticality of the depth, the Examiner is referenced to page 16, lines 1-22, where the rationale for the specific dimensions relating to the depth of the footing members is set forth in substantial detail. In particular, this section of the specification states:

> Further to the previous explanation relating to the function of the footing members 54, 56, 58, the provision of downwardly extending footing members 54, 56, 58 in accordance with the present invention creates "footers" which sink into and compress the underlying foam pad 60, holding the adjacent flooring panels 10 securely in positioned despite the application of downward pressure along the seams.

> In addition, the downwardly extending footing members 54, 56, 58 control the depth to which the short track locking strip 24 will sink within the foam pad 60 under the pressure of weight being applied to the flooring surface. In particular, the footing members 54, 56, 58 will compress into the underlying foam pad 60 to a predetermined limited extent such that the short track locking strip 24 sits upon the underlying foam pad 60 with the upper surface 64 of the base 30 lying in substantially the same plane as the upper surface 66 of the underlying foam pad 60. In this way, the short track locking strip 24 will compress no further into the foam pad 60 upon the application of downward force, creating a controlled connecting mechanism ideally suited for connecting adjacent flooring panels 10 commonly subjected to very high and uncontrolled downward forces.
>
> For example, and in accordance with a preferred embodiment of the present invention, a foam pad 60 is commonly approximately 0.0625 inches thick and it has been found such foam pads 60 may be compressed to a minimal thickness of approximately 0.004 inches when subjected to substantial downward pressure. As mentioned above, the short track locking strip 24 is designed to compress within the foam pad 60 to a position wherein the upper surface 64 of the base 30 is aligned with the upper surface 66 of the foam pad 60. As the base 30 is approximately 0.023 inches thick, it is necessary to form the footing members 54, 56, 58 with a depth of approximately 0.036 inches.

The claimed dimensions are not merely a matter of design choice.

With regard to the rejection of claims 16-18 and 20, the Examiner has applied Wright in view of U.S. Patent No. 4,683,693 to Rockar ("Rockar"). The Examiner interprets elements F and G to be the claimed first and second protrusions, but indicates that Wright does not disclose the projection extending beyond the longitudinal extent of the base. The Examiner references Rockar as suggesting the obviousness of providing a structure wherein the projection extends beyond the longitudinal axis of the base.

However, Rockar does not actually disclose a projection extending beyond the longitudinal extent of the base. The Examiner references element 142 which is disclosed by Rockar as being a screw port. As such, it is entirely unclear to Applicant how the screw port extends beyond the

longitudinal extent of the base as claimed in accordance with the present invention and how and why one would apply the screw port of Rockar to the extrusion device of Wright.

Further, and with reference to claim 18, the Examiner has once again applied the same rationale to the footing members as discussed above with regard to claim 1 which has already been shown to be clearly erroneous.

Finally, and with regard to claim 20, this claim requires that each of the first protrusion and the second protrusion extend beyond the longitudinal extent of the base along at least one end of the base to form a locking tab. As discussed above with regard to claim 16, it is entirely unclear how the protrusions, that is elements F and G as applied in the outstanding Office Action, extend beyond the longitudinal extent of the base. As such, it is unclear how the protrusion would function as a locking tab.

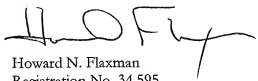
With the foregoing in mind, it is Applicant's opinion the outstanding rejections are improper and Applicant respectfully requests all rejections be withdrawn.

As to new claim 27, it is believed to be allowable for the reasons discussed above with regard to previously discussed claim 1. In addition, claim 27 incorporates limitations previously not considered which are believed to not be disclosed or suggested in the references of record. In particular, claim 27 defines a disengageable connector for interconnecting panels. The connector includes a longitudinally extending connector body having a substantially similar profile along its entire length. The connector body includes a base and a projection extending from the base. The base includes a top surface and a bottom surface, wherein the projection extends vertically upwardly from the top surface of the base. The projection has top and bottom portions, and comprising right

and left halves for insertion into edges of adjacent panels to be connected extending upwardly from the base. The bottom surface is composed of an underside consisting essentially of a first footing member extending downwardly from the bottom surface of the base, a second footing member extending downwardly from the bottom surface of the base and a third footing member extending downwardly from the bottom surface of the base. A first protrusion extends vertically from the base adjacent a first edge of the base and a second protrusion extends vertically from the base adjacent a second edge, opposite the first edge, of the base. The first protrusion and the second protrusion are spaced apart from the projection and are located on either side of the projection beyond a lateral extent of the respective right and left halves of the projection. The first protrusion includes a top portion and the first protrusion decreases in height as it extends from a center of the base toward an edge of the base and the second protrusion includes a top portion and the second protrusion decreases in height as it extends from the center of the base toward an edge of the base. The first and second footing members are respectively positioned beneath the first protrusion and the second protrusion. The third footing member is positioned beneath the projection. The first footing member, the second footing member and the third footing member are spaced by a first recess extending fully between the first footing member and the third footing member and a second recess extending fully between the second footing member and the third footing member. The first footing member, the second footing member and the third footing member are shaped and dimensioned to compress into an underlying foam pad to a predetermined limited extent such that the connector sits upon the underlying foam pad with the top surface of the base lying in substantially the same plane as the upper surface of the underlying foam pad.

It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested. If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact Applicant's representative at the below number.

Respectfully submitted,



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